IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD
(SPECIAL ORIGINAL JURISDICTION)

THURSDAY THE FIRST DAY OF APRIL TWO THOUSAND AND FOUR
: PRESENT :
THE HON'BLE MR.JUSTICE: **N.V. RAMANA**

W.P. No. 6253 of 2004

Between:

The Bio-mass Energy Developers Association, 1-11-252/AL23, Jabbar Apartments, Begumlpet, Hyderabad, rep by its Treasurer M. Ravikanth

Petitioner

AND

1. The Union of India, rep. by its Secretary, Ministry of Energy, Central Secretariat Buildings, New Delhi-1.
2. The Andhra Pradesh Electricity Regulatory Commission, Red Hills, Hyderabad, rep. by its Chairman.
3. Non-conventional energy Development Corporation of A.P., Ltd., Nampally, Hyderabad, rep by its Managing Director
4. The Andhra Pradesh Transmission Company Ltd, Vidyut Soudha, Somajiguda, Hyderabad., rep. by its Chairman cum Managing Director.

Respondents

Petition under Article 226 of the constitution of India, praying that in the circumstances stated in the affidavit filed therewith, the High Court will be pleased to issue an appropriate Writ, Order or direction more particularly a writ in the nature of Mandamus, the action of the 1st respondent in not establishing the Tribunal as contemplated under Section 110 of the Electricity Act, 2003 as violative of the principles of Natural Justice and further declare that the action of the 2nd respondent in revising the purchasing rate of the Electrical Energy through its order dated 20-3-2004 in RP No. 84/2003 in OP No.1025/2000 with a drastic reduction from the prevailing tariff without considering the Objections and the scientific date supplied by the Petitioner - Association, and even in negation of the recommendations of the 3rd respondent, the expert body, as being illegal, arbitrary, violative of principles of promissory estopped besides violative of Article 19 (1) (g) of the constitution of India and the established judicial precedents, and consequently set aside the order dated 20-03-2004 of the 2nd respondent with a direction to the 1st respondent to establish the Appellate Electricilty Tribunal as was envisaged under section 113 of the electricity Act. 2003.

The petition coming on for hearing, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.P. Srinivasulu,Advocate for the Petitioner and of mr. T. Suryakaran Reddy, S.C. for Central Govt., for the Respondent No.1 and of Mr. Sri Raghu Ram, Advocate for the Advocate for Respondent No.2. and of Mrs. M. Vinobha Devi.

The Court made the following ORDER :

"The learned Counsel for the petitioner Association submits that under Section 110 of the Indian Electricity Act, 2003, respondent No.1-Central Government is under an obligation to establish an Appellate Tribunal for Electricity to hear appeals against the orders of respondent No.2, Electricity

Regulatory Commission, and inasmuch as no Appellate Tribunal has been established by respondent No.1-Central Government, the petitioner is left with no remedy, except to invoke the jurisdiction of this Court under Article 226 of the Constitution of India to assail the orders of respondent No.2-Electricity Regulatory Commission.

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The learned Standing Counsel for Central Government took notice for respondent No.1-Central Government and sought time to get instructions as to the date by which the Appellate Tribunal could be established. The learned Standing Counsel for respondent Nos 2 and 3 took notice, and sought time to file counter.

The learned counsel for the petitioner contends that failure to constitute the Appellate Tribunal has deprived the petitioner-Association of their statutory right of appeal. He further contends that if the new tariff order is enforced, the members of the petitioner-Association will have to close down their units.

In the above circumstances, I consider it appropriate to make the following order:

For a period of three weeks, respondent No.3 shall continue to pay to the members of the petitioner Association for the power supplied by them as per the tariff existing prior to 1-4-2004. It is needless to mention that any difference of amount, between the old and new tariff, paid by respondent No.3 to the members of the petitioner Association by virtue of this interim order, can always be adjusted by respondent No.3 against the future bills of the members of the petitioner- Association, in the event the writ petition is dismissed.

List the matter on 19-4-2004."

ASSISTANT REGISTRAR
// TRUE COPY //

for ASSISTANT REGISTRAR

To

1. The Secretary, Ministry of Energy, Central Secretariat Buildings, Union of lIndia, New Delhi-1.
2. The Chairman, Andhra Pradesh Electricity Regulatory Commission, Red Hills, Hyderabad, .
3. The Managing Director, Non-conventional energy Development Corporation of A.P., Ltd., Nampally, Hyderabad,r

4. The Chairman cum Managing Director, Andhra Pradesh Transmission Company Ltd, Vidyut Soudha, Somajiguda, Hyderabad.,
   (1 to 4 BY RPAD)
5. One CC to Mr. P. Sreenivasulu, Advocate (OPUC)

Drafted by: skm
Drafted on: 2-4-2004

HIGH COURT

NVRJ

DT. 1-4-2004

NOTE: LIST THE MATTER ON 19-4-2004

ORDER

W.P.NO.6253 OF 2004

DIRECTION